

STATEMENT OF THE CASE

Marco Washington appeals his conviction for Carrying a Handgun without a License, as a Class C felony. Washington raises two issues for our review, which we restate as whether the State presented sufficient evidence to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On January 27, 2007, a fight broke out at Club Crump, an establishment for teenagers in South Bend. The fight moved outside, where it became physical. Alicia Easton, Kenosha Gordon, and Carl Washington, who were at the club at the time, saw the fight. Shortly after moving outdoors, both Kenosha and Carl saw Washington near the brawl holding a handgun. Shots were fired, two other patrons were injured, and the police were called.

On April 12, the State charged Washington with: Criminal Recklessness, as a Class C felony; carrying a handgun without a license, as a Class A misdemeanor; and carrying a handgun without a license, as a Class C felony. The third charge was an enhancement to the second charge contingent on Washington being found guilty of that underlying charge.

At the ensuing trial, Kenosha and Carl each testified that they saw Washington with a handgun at the club during the fight. Alicia testified that she could not remember who had a gun. Subsequently, the jury was unable to reach a unanimous verdict on the criminal recklessness charge. The court declared a mistrial on that charge, and the State dismissed the charge. The jury found Washington guilty of carrying a handgun without a license, as a Class A misdemeanor, after which Washington pleaded guilty to the

additional facts necessary to enhance that conviction to the Class C felony charge. The court entered its judgment and sentence accordingly. This appeal ensued.

DISCUSSION AND DECISION

Washington argues on appeal that the State did not present sufficient evidence to support his conviction for carrying a handgun without a license, as a Class C felony. When reviewing a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

Indiana Code Section 35-47-2-1(a) describes carrying a handgun without a license as follows: “[A] person shall not carry a handgun in any vehicle or on or about the person’s body, except in the person’s dwelling, on the person’s property or fixed place of business, without a license issued under this chapter being in the person’s possession.” Indiana Code Section 35-47-2-23(c) then states that that offense is a Class C felony if the accused has a prior conviction for carrying a handgun without a license. Thus, to convict Washington, the State was required to show, beyond a reasonable doubt, that he (1) carried a handgun; (2) on or about his person; (3) without a license; (4) with a prior conviction under that law. See Ind. Code §§ 35-47-2-1(a), 35-47-2-23(c) (2006).

However, Washington’s arguments on appeal in no way address the elements the State was required to demonstrate. Rather, Washington argues the following: “Although

testimony placed a gun in [Washington's] hand, no one testified that he shot the gun.” Appellant’s Brief at 5. But whether Washington fired the gun is irrelevant to his unlawful possession of that gun. As such, Washington’s argument on appeal is without merit.

Further, insofar as Washington asserts error in the admission of hearsay evidence used to impeach Alicia, that argument is not well taken. Alicia testified that she did not recall seeing Washington in possession of a handgun during the shooting and that she did not tell police otherwise at that time.¹ The State then recalled two officers who testified that Alicia told them she saw Washington with a handgun. But even if the State’s impeachment evidence was erroneously admitted by the trial court, any such error is harmless. Again, the State called two other witnesses, Carl and Kenosha, who each stated that they saw Washington with a handgun during the shooting. Accordingly, the State presented substantial independent evidence to support Washington’s conviction. See, e.g., In re Termination of the Parent-Child Relationship of E.T., 808 N.E.2d 639, 645-46 (Ind. 2004) (“The improper admission of evidence is harmless error when the judgment is supported by substantial independent evidence to satisfy the reviewing court that there is no substantial likelihood that the questioned evidence contributed to the judgment.”).

Affirmed.

SHARPNACK, J., and DARDEN, J., concur.

¹ To the extent that Washington argues that Alicia’s testimony is more credible than Carl’s and Kenosha’s, Washington asks this court to reweigh the evidence, which we will not do. See Jones, 783 N.E.2d at 1139.